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BEFORE THE
FEDERAL COMMUNICATION COMMISSION
WASHINGTON, D.C. 20554

In the matter of)	CC DOCKET NUMBER 02-6
)	
Request for Review by of the Decision of the)	DECLARATION OF THOMAS
Universal Service Administrator by)	HALFAKER IN SUPPORT OF
)	SCHOOLS FOR INTERGRADED
)	ACADEMICS AND TECHNOLOGIES &
)	NEW CORP REQUEST FOR REVIEW
)	OF USAC'S DENIAL OF E-RATE
SIATech)	FUNDING
NEWCorp Charter Schools)	
Oceanside, California)	
)	
Service Provider: Trillion Partners, Inc.)	
)	
Schools and Libraries Universal Service)	
Support Mechanism)	

FRN SIATech Number: 1877489; 1971060; 1908360; 1483818; 1619254; 1757276;
1756542; 1483818

FRN NEWCorp Number: 1618918; 1618542; 1618798; 1758214; 1758290;
1758160; 1905905; 1905998; 1907658; 1907687;
1907614; 1905746; 184051; 1983953; 1970863;
1970898; 1970878; 1984041; 1486990; 1485668;
1487203; 1486706

Form 471 Application No. 728534; 728420; 733636; 694690; 686078; 695002; 694279
686078; 584060; 635031; 635283; 536126; 537176; 537090;
537265; 536824

SPIN 143025872

Billed Entity FCC RN: 0013384730; 0013384789
Billed Entity Number: 16020467; 228867

1 I, Thomas Halfaker, declare as follows:

2 1. I am currently employed as the Director of Business Development for SIATech
3 and NEWCorp. I have been continuously employed by these organizations since July 1, 2004.
4 From July of 2005 through June of 2010, I held the position of Director of Information Systems
5 for SIATech and NEWCorp.

6 2. The School for Integrated Academics and Technologies ("SIATech") is an
7 accredited public charter high school with seven campus locations in California. All of the
8 campuses are located on Job Corps sites. Job Corps is a federal program funded by the
9 Department of Labor that provides vocational training to high school aged youth and young
10 adults. SIATech schools at Job Corps serve a student population drawn entirely from households
11 below the federally defined poverty line. SIATech schools in California participate in the E-Rate
12 program and submit applications for program funding as members of the SIATech consortium.
13 Over 10,000 students have graduated from the nationwide school network -- all of which are
14 former dropouts.

15 3. New Education for the Workplace ("NEWCorp") is a not-for-profit entity closely
16 affiliated with SIATech. NEWCorp has taken the SIATech school model and replicated it with
17 public charter schools in states other than California.

18 4. At present there are seven additional fully accredited SIATech schools operating
19 under NEWCorp and submitting E-Rate funding requests as members of the NEWCorp
20 consortium. The schools are located in Arizona, New Mexico and Florida.

21 5. Over the past eight years, SIATech and NEWCorp have developed a unique and
22 effective web based curriculum ("curriculum"). The design and implementation of the
23 curriculum takes full advantage of workstations, server and WAN (wide area network)
24 technology which allows central development and management of the curriculum with direct
25 online access available to all students. The E-Rate program has provided tremendous support for
26 this design and implementation by providing a subsidy for the network costs over the years.
27 Without this support, it is unlikely SIATech and NEWCorp could have developed this approach
28 to deliver the curriculum on which the program depends.

6. SIATech and NEWCorp have participated in the E-Rate Funding Program ("E-Rate") since as early as 2003. The vast majority of SIATech and NEWCorp's costs for internet and telecommunications services qualify for reimbursement under E-Rate. In fact, 90% of such costs incurred by SIATech and NEWCorp are eligible for reimbursement under E-Rate. The E-Rate Program is critical to the existence of SIATech and NEWCorp entire education program.

7. All of the denials by USAC of SIATech and NEWCorp's funding requests are associated with contracts entered into by the schools with Trillion Partners ("Trillion"), an E-Rate listed network services vendor based in Austin, Texas. Prior to entering into E-Rate funded contracts with Trillion, SIATech and NEWCorp had contracted with Trillion for non-E-Rate products.

8. Beginning in E-Rate funding year 2006, SIATech and NEWCorp sought bids for the replacement of an existing Wide Area Network. During this and subsequent funding years, SIATech and NEWCorp filed all of the required E-Rate forms and complied with all procurement rules published by the FCC and USAC. In all E-Rate contracting decisions, SIATech and NEWCorp selected the vendor which offered the most cost-effective means of meeting educational and technological goals. For WAN services, that vendor was Trillion.

9. During the five year period of submitting requests for E-Rate funding, SIATech and NEWCorp were responsive to all funding application reviews conducted by USAC. These included annual Program Integrity Assurance ("PIA") reviews, periodic (and more comprehensive) Selective Reviews, and an onsite audit conducted in early 2009. None of these reviews identified any problems with SIATech and NEWCorp processes for bid reviews and service provider selection.

10. Starting in June 2009, USAC began sending SIATech and NEWCorp new additional requests for information in connection with various Trillion funding requests. SIATech and NEWCorp made timely and complete responses to these requests for information; providing good faith answers to USAC based on the knowledge of the facts known to the person responding at the time. In September of 2009, SIATech and NEWCorp received letters from USAC indicating a pending denial of multiple years of funding requests. SIATech and

1 NEWCorp again provided a timely response to USAC examples of what it perceived as unfair
2 bidding practices. In October 2010, without providing a response to any of the rebuttals offered
3 by SIATech and NEWCorp, USAC began issuing Funding Commitment Decision Letters
4 ("FCDL") to the schools which denied E-Rate funding requests. Ultimately, for both SIATech
5 and NEWCorp combined, USAC denied E-Rate funding requests for five years 2006 to 2010 in
6 the amount of \$3,825,482.

7 11. USAC's funding denials were predicated on a finding that SIATech and
8 NEWCorp did not conduct a fair and open competitive bidding process in each of the respective
9 years when they selected Trillion Partners, Inc. to be their service provider.

10 12. In E-Rate Funding Year 2006 SIATech and NEWCorp issued Form 470's and
11 RFP's for an upgrade of their Wide Area Network ("WAN"). SIATech and NEWCorp
12 personnel developed Requests for Proposal and completed the FCC Forms 470 without the
13 assistance of any service provider or E-Rate consultant. The process of bidding and contract
14 award for Fiscal Year 2006 was conducted in full accordance with E-Rate program rules in effect
15 at the time. Trillion was selected as the vendor for SIATech's and NEWCorp's WAN's, offering
16 the most cost-effective solution with the price of the eligible products and services as the highest
17 weighted factor. In the subsequent years, the same process was followed and Trillion was again
18 selected as the vendor.

19 13. On or about June 12, 2009, USAC sent SIATech and NEWCorp requests for
20 information in connection with various Trillion funding requests. (Attached hereto as "Exhibit
21 B" is a true and correct copy of the June 12, 2009 letters to Applicants from USAC.)

22 14. On June 25, 2009, SIATech and NEWCorp responded to USAC's request for
23 information, in good faith, and based on the knowledge of the facts known to the person
24 responding at the time. (Attached hereto as "Exhibit C" is a true and correct copy of the June 25,
25 2009 letters to USAC from SIATech and NEWCorp.)

26 15. On or about June 3, 2010, USAC sent NEWCorp a request to respond to questions
27 and information concerning various SIATech and NEWCorp funding requests. Among other
28 things, the questions pertained to Form 470 and e-mail correspondence with Trillion. (Attached

1 hereto as "Exhibit D" is a true and correct copy of the June 3, 2010 letter to NEWCorp from
2 USAC.)

3 16. On June 4, 2010, USAC sent SIATech a similar request. (Attached hereto as
4 "Exhibit E" is a true and correct copy of the June 4, 2010 letter to SIATech from USAC.) On
5 July 28, 2010 SIATech and NEWCorp responded to USAC's request for information, in good
6 faith, and based on the knowledge of the facts known to the person responding at the time.
7 (Attached hereto as "Exhibit F" are true and correct copies of the July 28, 2010 letters to USAC
8 from SIATech and NEWCorp.)

9 17. On or about September 9, 2010, USAC sent SIATech and NEWCorp requests to
10 respond to questions and information concerning various funding requests. (Attached hereto as
11 "Exhibit G" is a true and correct copy of the September 9, 2010 letters to SIATech and
12 NEWCorp from USAC.)

13 18. On September 15, 2010, USAC sent SIATech and NEWCorp a letter stating,
14 among other things, "based on the documentation that you have provided, the entire FRN
15 1619254 & 1756542 will be denied because you did not conduct a fair and open competitive bid
16 process free from conflict of interest." (Attached hereto as "Exhibit H" is a true and correct copy
17 of the September 15, 2010 letter sent to SIATech and NEWCorp from USAC).

18 19. SIATech and NEWCorp responded on September 28, 2010. (Attached hereto as
19 "Exhibit I" is a true and correct copy of the September 28, 2010 letter USAC from SIATech and
20 NEWCorp.)

21 20. On October 12, 2010, USAC issued FCDL's (Funding Commitment Decision
22 Letters) denying SIATech and NEWCorp 471 Applications for funding year 2010. (Attached
23 hereto as "Exhibit J" are true and correct copies of the October 12, 2010 letters to SIATech and
24 NEWCorp from USAC.)

25 21. On October 20, 2010, USAC issued FCDL's denying SIATech and NEWCorp
26 471 Applications for funding year 2009. (Attached hereto as "Exhibit K" are true and correct
27 copies of the October 20, 2010 letters to SIATech and NEWCorp from USAC).

28 22. On October 21, 2010 USAC issued Notification of Commitment Adjustment

1 Letters denying the SIATech and NEWCorp 471 Applications for funding years 2007 and 2008.
2 (Attached hereto as "Exhibit L" are true and correct copies of the October 21, 2010 letters to
3 SIATech and NEWCorp from USAC).

4 23. On October 25, 2010, USAC issued an Administrator's Decision on FCC Remand
5 for Funding Year 2006 denying the SIATech and NEWCorp 471 Applications for funding year
6 2006 and 2007. (Attached hereto as "Exhibit M" is a true and correct copy of the October 25,
7 2010 letters to SIATech and NEWCorp from USAC.)

8 24. On November 5, 2010, USAC issued notification of commitment adjustment
9 letters denying NEWCorp's 471 applications for funding years 2007-2008. (Attached hereto as
10 "Exhibit N" are true and correct copies of the November 5, 2010 letters to NEWCorp from
11 USAC.)

12 25. SIATech and NEWCorp Forms 470 requested specific services. SIATech and
13 NEWCorp selected the service provider that offered the most cost effective means of meeting
14 educational and technology goals in compliance with program bid rules and regulations.

15 26. All of the Forms 471 and related Applications submitted by SIATech and
16 NEWCorp have been subjected to Program Integrity Assurance (PIA) review by USAC.

17 27. In 2009, under the direction of the FCC Office of the Inspector General, auditors
18 from KPMG conducted an onsite independent audit of Funding Years 2006 and 2007 E-Rate
19 applications by SIATech for funding and service provider selections. The audit was conducted
20 to determine compliance with FCC regulations and orders. Two auditors were onsite at SIATech
21 and NEWCorp administrative offices full-time for three weeks and a third individual supervised
22 the audit with multiple onsite visits. After their departure, the auditors continued the review at
23 their offices for an unknown period of time.

24 28. The final audit report dated December 2, 2009, stated the KPMG auditors
25 conducted a full review of the entire E-Rate service provider selections procedures used by
26 SIATech in Fiscal Years 2006 and 2007 for E-Rate fund disbursements made in the Fiscal Year
27 ended June 30, 2008. (Attached hereto as "Exhibit O" is a true and correct copy of the KPMG
28 Audit Report December 2, 2009.)

29. Ultimately, the auditors, selected by USAC and the FCC, concluded that SIATech complied with the material requirements of FCC regulations in selecting Service Providers.

30. Moreover, USAC issued a Management Response Letter dated March 10, 2010 that "concurs with the finding, effect and recommendation" of KPMG. (Attached hereto as "Exhibit P" is a true and correct copy of the March 10, 2010, USAC Management Response Letter.)

31. On or about December 15, 2006, SIATech and NEWCorp filed their Forms 470 advising vendors that they sought both increased WAN capacity and related equipment associated with the additional services. The Forms 470 were posted through USAC to all potential service providers as required by USAC regulation. All potential bidders were treated the same and received the same information. SIATech and NEWCorp waited the mandatory 28 day period to select the vendor, providing all vendors the opportunity to present a proposal.

32. The Commission previously has addressed specific situations in which an applicant, service provider, or both have compromised the fairness of a competitive bidding process because of improper conduct. What applicant schools were instructed to do under the then published FCC and USAC guidelines was to follow the governing bidding and contracting procedures of their district or state when selecting E-Rate service providers. This is what SIATech and NEWCorp did when selecting vendors for E-Rate program products and services.

33. SIATech and NEWCorp conducted fair and open procurement processes. All potential vendors received the same information and had the same opportunity to respond. There was no violation of Program rules when the SIATech and NEWCorp selected service providers with a ranking system that considered cost as the most important factor.

34. During the years of filing Forms 470, SIATech and NEWCorp have been unsure what category of service is correct for their Priority 1 WAN services as these services cover both Telecommunications Services and Internet Access (separate E-Rate filing categories).

35. The referred e-mail message states that the WAN services are more appropriately categorized in "Telecommunications Services." (Attached hereto as "Exhibit Q" is a true and correct copy of the January 19, 2006 e-mail from Trillion to SIATech) The e-mail message by

1 Trillion was intended for SIATech and NEWCorp to understand the correct procedural steps in
2 the Form 470 filing process to avoid any rule violations. The e-mail correspondence did not in
3 any way influence the vendor selection process. The communication was simply to clarify the
4 service category for the requested service.

5 36. The email dated January 8, 2008 from Trillion was intended for SIATech and
6 NEWCorp to understand the correct procedural steps in the Form 470 filing process to avoid any
7 rule violations. (Attached hereto as "Exhibit R" is a true and correct copy of the January 8, 2008
8 e-mails from Trillion to SIATech) The e-mail correspondence did not in any way influence the
9 vendor selection process.

10 37. The communications did not provide inside information or any bidding advantage
11 to the service provider. There is no evidence SIATech and NEWCorp received more funding
12 than was appropriate for the requested service and there is no evidence of waste, fraud or abuse,
13 misuse of funds, or a failure to adhere to core program requirements.

14 38. In FY 2006, SIATech and NEWCorp signed five contracts with and implemented
15 a Wide Area Network (WAN) with Trillion being the service provider. From that point in time,
16 SIATech and NEWCorp internally referred to the WAN as the "Trillion WAN", in an effort to
17 distinguish it from the WAN provided by the schools' former service provider. "Trill" was
18 included in this identifier to allow SIATech and NEWCorp internally to easily identify the
19 application as being WAN related. The identifier was not used to identify that Trillion was to be
20 awarded the contract, did not compromise the bidding process and did not unfairly influence the
21 outcome of the competition or provide Trillion with inside information.

22 39. USAC's September 15, 2010 Proposed Denial of the E-Rate Funding is based on
23 SIATech and NEWCorp employees receiving "valuable meals" from Trillion. The average cost
24 of each meal per person was roughly \$14.00. Each meal typically had one to two attendees.

25 40. Neither SIATech and NEWCorp nor Trillion received any improper benefit from
26 these very modest meals. The meals were extensions of regular meetings between the schools
27 and Trillion to discuss ongoing technical and business issues related to the major network
28 services being provided to SIATech and NEWCorp by Trillion.

1 41. The meals took place in calendar years 2006, 2007 and 2008 and SIATech and
2 NEWCorp were not notified until June 3, 2010 by USAC of any potential violation of any
3 Program bid rule. No conflict of interest arose between SIATech and NEWCorp employees
4 attending meals with Trillion as the meals had no influence over the schools' decision to select
5 Trillion as their Service Provider.

6 42. SIATech and NEWCorp had ongoing technical discussions with Trillion
7 concerning WAN performance issues as they were (and are) their WAN service provider. These
8 discussions covered a large range of topics oriented to making sure the WAN architecture and
9 implementation (including WAN design) were working as anticipated. These discussions
10 whether in business meetings or meals were not held in any way to plan or influence the issuance
11 of pending or future selection of vendors under E-Rate.

12 43. SIATech and NEWCorp are ready, willing and able to reimburse Trillion for the
13 total amount of what USAC says the meals cost.

14 44. I received e-mail correspondence that included an invitation to attend Trillion's
15 Customer Council meeting in FY 2007. These e-mails dated June 8, 2007 through June 13, 2007
16 state that I was invited to the Customer Council. I suggested that David Davis be invited, but he
17 was unable to attend. I also received e-mail communication from Trillion to attend a National
18 Conference. I am not aware of any employee of SIATech or NEWCorp that attended either the
19 conference or meeting. An internal investigation found no evidence of any employee of
20 SIATech and NEWCorp having accepted inappropriate travel expenses, meals, or gifts from
21 Trillion or any other vendor associated with the E-Rate program. Nor did SIATech and
22 NEWCorp find that Trillion provided any type of incentive, financial or otherwise, to either
23 organizational entity as an inducement to give them preferential treatment.

24 45. During all of the years of E-Rate program participation, SIATech and NEWCorp
25 maintained a Board of Directors approved conflict-of-interest policy. In addition, all
26 administrators of the schools are required annually to complete and submit a State of California
27 Form 700 which details any relationships which might indicate the existence of a conflict of
28 interest. SIATech and NEWCorp employees or board members may not serve on any board of

1 any type of telecommunications, Internet access, or internal connections service provider that
2 participates in the E-Rate program in the same State.

3 46. SIATech and NEWCorp during the funding period filed the required State of
4 California Form 700. (Attached hereto as "Exhibit S" is a true and correct copy of the California
5 Form 700.) A review of the Forms indicates that the reporting employees did not report receiving
6 gifts and were in full compliance with state and local conflict of interest requirements.

7 47. USAC authorized the OIG audit in 2009, received the final report on December 2,
8 2009, and issued their Management Letter Response on March 10, 2010. USAC requested
9 information from SIATech and NEWCorp on or about June 12, 2009 when they began their
10 pattern analysis of applicants contracting with Trillion.

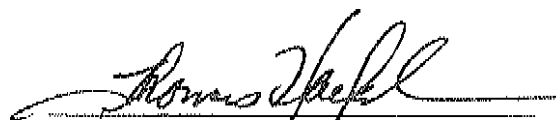
11 48. On or about October 12, 2010 through November 5, 2010, USAC informed
12 SIATech and NEWCorp that their funding requests previously approved years ago are now
13 denied.

14 49. Without a reversal of USAC's judgment SIATech and NEWCorp will be forced
15 to incur expenses that have not been budgeted.

16 50. The unanticipated expenses could jeopardize the continuing operation of SIATech
17 and NEWCorp schools, which provide education to a population of students that all qualify for
18 the Federal Free Reduced Lunch Program.

19 I declare under penalty of perjury under the laws of the State of California the above is
20 true and correct.

21 December 9, 2010

22 
23 Thomas Halfaker
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